

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF HAWAII

UNITED STATES OF AMERICA,)	CR. NO. 15-00615-02 DKW
)	
Plaintiff,)	ORDER GRANTING UNITED
)	STATES' MOTION FOR
vs.)	REDUCTION OF SENTENCE
)	
SIOSIUA AFUNGIA,)	
)	
Defendant.)	
_____)	

On June 29, 2020, the United States filed a motion seeking to reduce the sentence of Defendant Siosiuafungia, pursuant to Federal Rule of Criminal Procedure 35(b)(2)(B). Dkt. No. 55. On July 2, 2020, Afungia filed a response. Dkt. No. 57. Although the government was invited to reply (*see* Dkt. No. 56), it has not.

Rule 35(b)(2)(B) provides:

(2) Later Motion. Upon the government's motion made more than one year after sentencing, the court may reduce a sentence if the defendant's substantial assistance involved:

(B) information provided by the defendant to the government within one year of sentencing, but which did not become useful to the government until more than one year after sentencing;

On April 13, 2016, this Court sentenced Afungia to a total term of incarceration of 70 months with five years of supervised release to follow. Dkt. No. 45. The United States explains that following Afungia's 2016 sentencing, the parties represented to the Court that they would likely be back with a Rule 35 motion because Afungia's cooperation was continuing, particularly with regard to a specific narcotics trafficker. For that reason, the government filed an anticipatory Rule 35 motion on March 8, 2017 (Dkt. No. 54). Although Afungia's information did not ultimately lead to a prosecution (Dkt. No. 55 at 5),¹ the government now seeks to reduce Afungia's sentence based on his efforts.

Based on the representations and recommendations made by the United States, the Court GRANTS the United States' motion, accepts the government's recommendation of a two-level downward adjustment of the applicable sentencing guidelines based on Afungia's additional cooperation, and finds a restated guideline range of 57 to 71 mos. (offense level 25, criminal history category I) to apply. The Court further orders that Afungia's sentence of 70 months' imprisonment be

¹Afungia's response brief describes his additional cooperation as resulting not only in a prosecution, but the successful conviction of another. Dkt. No. 57 at 2. This appears to refer to a target that is different than the individual noted by the government, given that the government says Afungia's information "did not amount to enough evidence to charge that individual." Dkt. No. 55 at 5. Since the government did not reply, no clarification of this discrepancy was offered. Nonetheless, to the extent Afungia's information assisted the government in more than one investigation/prosecution, and if the government believes it warranted, the Court will entertain a further motion or amendment, if filed by July 27, 2020. Time is of the essence in that

reduced to the low-end of the restated guideline range of 57 months. An Amended Judgment will be issued forthwith reflecting this change.

IT IS SO ORDERED.

Dated: July 23, 2020 at Honolulu, Hawai'i.




Derrick K. Watson
United States District Judge

the Court's order herein may already result in Afungia over-serving his sentence.